JUDICIAL COUNCIL OF CALIFORNIA ADMINISTRATIVE OFFICE OF THE COURTS

455 Golden Gate Avenue San Francisco, California 94102-3660

Report

TO: Members of the Judicial Council

FROM: Family and Juvenile Law Advisory Committee

Hon. Mary Ann Grilli and Hon. Michael Nash, Co-chairs Michael Wright, Supervising Attorney, 415-865-7619,

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DATE: October 16, 2002

SUBJECT: Governmental and Family Law: New and Revised Forms for Initiating

and Processing Child Support Cases (revise form FL-600; adopt form FL-683 *Order to Show Cause (Governmental)*) (Action Required)

Issue Statement

Form FL-600 Summons and Complaint or Supplemental Complaint Regarding Parental Obligations (Governmental) needs to be revised to make the forms and procedures more understandable to the litigants and to more accurately track statutory language. Some minor corrections in the formatting would also be made. New form FL-683 would provide an Order to Show Cause (Governmental) form specifically adapted to governmental child support actions including notices mandated in such actions.

Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2003:

- 1. Revise form FL-600, the Summons and Complaint or Supplemental Complaint Regarding Parental Obligations (Governmental); and
- 2. Adopt for mandatory use new form FL-683, Order to Show Cause (Governmental).

The text of the forms is attached at pages 4-10.

Rationale for Recommendation

Form FL-600 Summons and Complaint or Supplemental Complaint Regarding Parental Obligations (Governmental) contains modified notice language regarding the right to object to the matter being heard by a commissioner and the procedure to do so. These changes would make the notice conform better to the provisions of Family Code section 4251. The form also allows for additional space to list a greater number of children in item 1 to avoid the need for attachment sheets.

Form FL-683, *Order to Show Cause (Governmental)* is a new *Order to Show Cause* form for governmental actions, which includes the mandatory notice provision of Family Code section 4251 regarding the procedure for objecting to a Title IV-D child support commissioner.

Alternative Actions Considered

There are no appropriate alternative actions since the mandatory notice provisions must be included on the forms.

Comments From Interested Parties

These forms were circulated for comment, and the comments, including committee responses, are attached on pages 11–15. Of the 13 comments received, 5 commentators agreed with the proposal, 8 agreed with the proposal if modified, and none disagreed. The comments were mainly suggestions to improve the format and clarity of the proposed new form.

A commentator from the California Center for Law and the Deaf suggested adding a notice to the forms regarding accommodations for deaf and hearing-impaired individuals—specifically, that a sign language interpreter, assistive listening device, or real-time transcriber will be provided upon request. The notice should include contact information. The commentator asserts that this information is needed to ensure compliance with and effective implementation of rule 989.3 of the California Rules of Court; Evidence Code section 754; Civil Code section 54.8; and Title II of the Americans With Disabilities Act, 42 U.S.C. 12131 et seq., as implemented by 28 CFR 35.160-164. The committee has referred this comment to the council's Rules and Projects Committee, which will develop a comprehensive policy regarding this issue.

Concern was also expressed that the mandatory notice provisions are located within the body of the form rather than in separate attachments. Outside consultants have advised the committee that notices in attachments are less likely to be observed, and thus the committee has kept the notice provisions within the body of the form. The committee will review this form in the future for simplification.

Implementation Requirements and Costs

Following established procedures, camera-ready copies of the forms will be delivered to the courts and to commercial Judicial Council forms publishers. The courts will make copies available to the public. In addition, copies of the forms will be posted to the California Courts Web site. There are no costs beyond the normal costs incurred in providing forms.

Attachments

GOVERNMENTAL AGENCY (u	ınder Family Code, §§ 17400 and	d 17406):			FOR COURT USE	ONLY
TELEPHONE NO.:		FAX NO.:				
E-MAIL ADDRESS (Optional):						
ATTORNEY FOR (Name):						
	CALIFORNIA, COUNT	Y OF				
STREET ADDRESS:	,					ГЛ
MAILING ADDRESS:					DRAF1	I -4
CITY AND ZIP CODE:						
BRANCH NAME:						
PETITIONER/PLA	AINTIFF:					
	NIDANIT					
RESPONDENT/DEFE	NDAN1:					
OTHER P	ARFNT:					
SUMMONS AND	COMPLAINT	SUPPLE	MENTAL COMP	Ι ΔΙΝΤ CASE NU	MBER:	
. —	ENDED COMPLAINT	REGARDING PARE				
TO (name):				-		
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		lawsuit against you. Th				
	-	bbligor may be required FL-630) names you and				
		ed <i>Judgment</i> , orders the	-	•		
		ned <i>Answer</i> form with t			-	-
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responsabilidades que		acioni i ala mayor imon	madion, voa la ac	zolaraoiori arroxa	Toopooto a loo a	orderiod y
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1. The local child supp	oort agency is asking t	he court to issue judgm Date of	ent or orders for Establish	tnese children si Establish	arting on the "be Modify	ginning dates": Beginning
Name		Birth	Parentage	Support	Order	Date
			<u> </u>			
			H			
			H		H	
			Ħ		Ħ	
Additional chil	dren are listed on a pa	age (labeled Attachmer	it 1) attached to t	his Complaint.	_ 	
	Notice to perso	on served: You are se	rved			
	1. as an i	ndividual defendant.				
	2. on beh	alf of a minor child or c	hildren.			
	3. other (specify):				
	Date:		Clerk, by			, Deputy
						Page 1 of 6

_	PETITIONER/PLAINTIFF:	CASE NUMBER:
R	ESPONDENT/DEFENDANT:	
	OTHER PARENT:	
2.	a. The parents of the children named in item 1 are Mother (name):	
	b. Defendant Other parent is named as the father of the children listed on file with	ed in item 1 in the declaration of paternity
	 County local child support agency. County welfare department. 	
	c. The obligor (the parent asked to pay support) is the Petitioner/Plaintiff Other Parent	Respondent/Defendant
3.	Complete the following section if support is being requested but the establish parentage to Please specify each child. You do not need to complete this section if a final judgment of this case number.	
	a. A Voluntary Declaration of Paternity that has not been rescinded and was signed California Department of Child Support Services for the following children (special contents).	
	b. Children were conceived during the marriage of mother and father. (Name of ch	ildren):
	c. Judgment of parentage has previously been entered. (Name of children):	
	d. Other (specify):	
	(Name of children):	

PETITIONER/PLAINTIFF:	CASE NUMBER:									
RESPONDENT/DEFENDANT:										
OTHER PARENT:										
4. a. Some or all of the children named in item 1 are receiving or have received public (specify):	<u> </u>									
b. Date public assistance first paid:										
5. Other (specify):										
THE LOCAL CHILD SUPPORT AGENCY REQUESTS										
6. L That the court determine that the persons listed in item 2 are the parents of the child	dren listed on page one.									
7. That, based on the California support guideline, the court order the obligor to pay:	Impure income of the									
a \$ current monthly child support based on the obligor's per month, and, if applicable, the obligee's known income of: \$	per month.									
b. \$\Bigs\tau \text{\$ current monthly child support based on the obligor's }\ c. \$\Bigs\text{\$ additional monthly child support for the following real }\]	presumed income, as provided by law.									
d \$ child support from the beginning dates specified in it	em 1 through									
the end of the month in which this <i>Complaint</i> is filed days for the following children (specify):	ate (specify):									
8. Other (specify):										
9. That the court order the obligor to provide health insurance for each child named in item 1, if available at no or reasonable cost, and to complete the attached health insurance form and immediately return it to the office of the local child support agency at the address printed in the top left corner of page one, and that a National Medical Support Notice be issued. NOTICE: The obligor's employer or other person providing health insurance will be ordered to enroll the children in an appropriate health insurance plan if the obligor is found to be the parent. (Fam. Code, § 3761)										
10. That an earnings assignment be ordered.										
11. That the court order the parents to advise the local child support agency within 10 days employment.	in writing of any change in residence or									
12. That the court order the obligor to make all payments to (specify):										
13. That the other parent be added as a party to this case.										
14. Number of pages attached:										
NOTICE										
IF YOU WANT LEGAL ADVICE, CONTACT A LAWYER II	IF YOU WANT LEGAL ADVICE, CONTACT A LAWYER IMMEDIATELY.									
A Statement of Rights is attached to this document. Please	e read it carefully.									
Date:										
•										

(ATTORNEY FOR LOCAL CHILD SUPPORT AGENCY)

(TYPE OR PRINT NAME)

PETITIONER/PLAINTIFF:	CASE NUMBER:
RESPONDENT/DEFENDANT:	
OTHER PARENT:	

This case may be referred to a court commissioner for hearing. By law, court commissioners do not have the authority to issue final orders and judgments in contested cases unless they are acting as temporary judges. The court commissioner in your case will act as a temporary judge unless, *before the hearing*, you or any other party objects to the commissioner acting as a temporary judge. The court commissioner may still hear your case to make findings and a recommended order. If you do not like the recommended order, you must object to it within 10 court days in writing, (use *Notice of Objection (Governmental*) (form FL-666); otherwise, the recommended order will become a final order of the court.) If you object to the recommended order, a judge will make a temporary order and set a new hearing.

Each superior court has a family law facilitator's office to provide education, information, and assistance to parents who have child support issues. The basic duties of the family law facilitator include:

- Providing educational materials;
- Distributing court forms;
- Providing assistance in completing forms;
- Preparing child support guideline calculations; and
- Providing referrals to the local child support agency, family court services, and other community agencies.

The family law facilitator is a neutral person whose services are available to any person who is NOT represented by an attorney. Both parties in the same case may receive assistance from the family law facilitator. There is no attorney-client privilege between the family law facilitator and any person assisted by the family law facilitator, and matters discussed with the family law facilitator are not confidential. No person can be represented by the family law facilitator.

STATEMENT OF RIGHTS AND RESPONSIBILITIES

NOTICE to the defendant: The proposed *Judgment* will be entered against you unless you file your written *Answer to Complaint or Supplemental Complaint Regarding Parental Obligations (Governmental)* (form FL-610) with the court clerk within 30 days of the date you were served with the *Complaint*. The proposed *Judgment* will be entered whether or not you have a lawyer. If you were served with a form telling you the date of a court hearing, you should go to court on that date. An order may be entered without your input if you do not attend the hearing.

AVISO para el acusado: El FALLO propuesto entrará en efecto contra usted, a menos que dentro de 30 días desde cuando recibió notificación de la DEMANDA, usted registre por escrito una RESPUESTA A DEMANDA o DEMANDA SUPLEMENTAL RESPECTO A OBLIGACIONES PATERNAS (Gubernamental) (formulario 610). El FALLO propuesto entrará en efecto contra usted, tenga o no tenga usted un abogado. Si le dieron notificación con un formulario que especifica una fecha de audiencia, usted tiene que presentarse al tribunal en esa fecha. Si no asiste a la audiencia, una orden judicial podrá emitirse sin considerar su punto de vista.

PETITIONER/PLAINTIFF:	CASE NUMBER:
RESPONDENT/DEFENDANT:	
RESPONDENT/DEFENDANT.	
OTHER PARENT:	

NOTICE TO BOTH PARENTS

The local child support agency has sued both of you to determine whether you are the parents of the children listed and if one or both of you should be ordered to pay child support. The local child support agency does not represent any individual in this lawsuit, including either parent or the children. Carefully read this statement and the other papers that you received.

You have the right to be represented by a lawyer. If you dispute that you are the parent of the children listed in the *Complaint* and you do not have enough money for a lawyer, you may ask the court to appoint a lawyer to represent you on the issue of parentage.

Other information :	about court-appointe	d lawyers
(specify):		

A blank Answer to Complaint or Supplemental Complaint Regarding Parental Obligations (Governmental) (form FL-610) is included in the papers that were served on you. If you did not receive an Answer form or if you would like another copy, you may get one from the local child support agency, the court clerk's office, or the family law facilitator. The family law facilitator can assist you in filling out the Answer form. You must file your Answer form with the court clerk within 30 days of the date you were served with the Complaint whether or not you obtain an attorney.

Settling Out of Court

You may contact the local child support agency to try to work out a settlement agreement. However, you must still file an *Answer* form within 30 days. If you and the local child support agency can reach an agreement regarding the requests made in the *Complaint*, you may sign a settlement agreement called a STIPULATION. By signing a stipulation, you are agreeing to give up your rights explained in this statement, you are agreeing that you are the parent of the children listed in the *Complaint*, and you are agreeing to obey all of the terms of the stipulation. The stipulation will become a court order that you must obey.

Going to Court

If you file your *Answer* form, you have the right to a court hearing, to subpoena witnesses, to ask questions of any witness against you, and to present evidence on your behalf. Genetic tests may be performed if the defendant questions parentage of the children listed in the *Complaint*. If the defendant refuses to cooperate in the genetic testing process, the issue of parentage may be resolved against the defendant. The costs of the genetic testing may be charged to one of you.

This case may be referred to a court commissioner for hearing. By law, court commissioners do not have the authority to issue final orders and judgments in contested cases unless they are acting as temporary judges. The court commissioner in your case *will* act as a temporary judge unless, *before the hearing*, you or any other party objects to the commissioner's acting as a temporary judge.

The court commissioner may still hear your case to make findings and a recommended order. If you do not like the recommended order, you must object to it within 10 court days in writing, (use Notice of Objection (Governmental) (form FL-666); otherwise, the recommended order will become a final order of the court.) If you object to the recommended order, a judge will make a temporary order and set a new hearing.

You can object to the commissioner's acting as a temporary judge in one of two ways: (1) by telling the commissioner in court, at the start of your hearing, that you object or (2) by delivering a written objection to the court clerk. You must object before the hearing in your case begins. You do not have to give a reason for your objection.

PETITIONER/PLAINTIFF:	CASE NUMBER:
RESPONDENT/DEFENDANT:	
OTHER PARENT:	

All orders for support must contain an earnings assignment. If you are obligated to pay support, this assignment will require your employer or other payor to deduct support payments from your salary or earnings and send the payments to the local child support agency. Your employer may also be required to enroll your children in a health insurance plan and deduct the cost from your salary or earnings.

Any amounts you owe may be collected from your property, whether or not you are current in your payments toward past due support. Collection may be made by taking money owed to you by the state or federal government (such as tax refunds, unemployment and disability benefits, and lottery winnings), by taking property you own, by placing a lien on your property, or by any other lawful means. You may be fined or imprisoned if you fail to pay support as ordered.

If the local child support agency does not know how much money the obligor (parent asked to pay support) earns, he or she is presumed to earn enough money to pay the amounts stated in item 6b of the proposed *Judgment Regarding Parental Obligations (Governmental)* (form FL-630).

OTHER IMPORTANT INFORMATION

Both parents should tell the local child support agency everything they know about the other parent's earnings and assets.

The defendant is always a party to this action. If the other parent has requested or is receiving services from the local child support agency, that parent will become a party to the lawsuit filed by the local child support agency after the initial support order or medical support order is entered by the court. After the other parent has become a party to the lawsuit either parent may then ask the court to decide issues concerning support, custody, visitation, and restraining orders (domestic violence). No other issues may be raised in this lawsuit. Either parent may go to court to modify the court order. The local child support agency cannot bring proceedings to establish or modify custody, visitation, or restraining orders.

After the other parent has become a party to the lawsuit, either parent may go to court to enforce the existing order against the other, but must first notify the local child support agency as required by law. The local child support agency is allowed 30 days to determine whether or not a parent will be permitted to proceed with the enforcement action against the other parent. The local child support agency may deny a parent permission to proceed if it is currently taking enforcement action or if the action by a parent would interfere with an investigation. If the local child support agency does not respond to the notice by the parent seeking enforcement within 30 days or if the local child support agency notifies the parent seeking enforcement that the enforcement action can proceed, the parent may then file the enforcement action as long as all support is paid through the local child support agency.

If the custodial person receives public assistance, the local child support agency may agree to settle any parentage or support issue in this lawsuit without providing advance notice to the custodial person. A child support agency may not settle any child support issue without the consent of any parent who is an applicant for child support services and who does not receive public assistance.

The local child support agency is required, under section 466(a)(13) of the Social Security Act, to place in the records pertaining to child support the social security number of any individual who is subject to a divorce decree, support order, or paternity determination or acknowledgment. This information is mandatory and will be kept on file at the local child support agency.

Your family law facilitator is available to help you with any questions you may have about the above information. You can reach your family law facilitator by telephone at:

() —
or in person at:

For more information on finding a lawyer or family law facilitator, see the Self-Help Web site: www.courtinfo.ca.gov/selfhelp/.

This case may be referred to a court commissioner for hearing. By law, court commissioners do not have the authority to issue final orders and judgments in contested cases unless they are acting as temporary judges. The court commissioner in your case will act as a temporary judge unless, before the hearing, you or any other party objects to the commissioner acting as a temporary judge. The court commissioner may still hear your case to make findings and a recommended order. If you do not like the recommended order, you must object to it within 10 court days; otherwise, the recommended order will become a final order of the court. If you object to the recommended order, a judge will make a temporary order and set a new hearing.

Child support is based on your ability to pay, which may include your income, earning capacity, lifestyle, or presumed income set by statute. The amount of child support can be large and can continue until the children reach age 19. You should give the court information about your income and expenses. If you do not, the support order will be based on other information given to the court, or presumed income set by statute.

You do not have to pay any fee to file your Response to Governmental Notice of Motion or Order to Show Cause (Governmental) (form FL-685) and your completed Income and Expense Declaration (Family Law) (form FL-150) or Financial Statement (Simplified) (FL-155). In the absence of an order shortening time, you must file any documents with the court and mail copies (at least 10 calendar days before the hearing date) to the local child support agency at the following address:

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
1.	Mr. Neal S. Dudovitz Executive Director Los Angeles County Neighborhood Legal Services	AM	Y	FL-600. The language on page 3 to object to a court commissioner is unclear. It should clearly explain how the litigant could object to the commissioner and what happens if the litigant objects to the commissioner.	See comment below at item 11.
2.	Ms. Barbara Fennell Family Law Facilitator Superior Court of Monterey County	A	N	FL-683: Add in O.S.C notice box that filing with the court is required; giving the papers to DCSS will not suffice. Pro pers constantly only send the <i>Response</i> and <i>Income and Expense Declaration</i> to DCSS who report they did not receive anything on time. Change the focus to filing with the court at the top of Notice box.	Agree.
3.	Ms. Kristy Johnson Department of Child Support Services & Child Support Directors Association Judicial Council Forms Committee	AM	N	Page 2 of 5 – Item 3a. should read: A Voluntary Declaration of Paternity that has not been rescinded signed by mother and father is on file. Item 7 should read: That, based on the California support guideline, the court order the obligor to pay: Page 3 of 5 – The third sentence in the last paragraph should read: There is no attorney-client privilege between the family law facilitator and any person assisted by the family law facilitator.	Agree.
				FL-683: Order to Show Cause (Governmental) Item 3, third line should read: and the following shall be served with this order: The bottom right corner of the form says "Page 1 of 1" inside the Notice box.	Agree.

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
4.	Mr. J. Kendrick Kresse California Center for Law and the Deaf	AM	N N	Suggest moving "Page 1 of 1" under the box. Item 3 states that "the following be served with this order:", it then has items 3(d)(1) – 3(d)(3) that are not documents, but are merely orders. Suggest the first sentence in item 3 become item 3a, with current items 3a., b., c., and d. moved to become 3.a.(1), (2), (3), and (4); and current items 3d.(1), (2), and (3) moved to become 3b., c., and d. FL-600 & FL 683: Urge that a notice be added to the forms regarding accommodations for deaf and hearing-impaired individuals. Specifically, that a sign language interpreter, assistive listening device, or real-time transcriber will be provided upon request. The notice should include contact information. This information is needed to insure compliance with and effective implementation of rule 989.3; Evidence Code section 754; Civil Code section 54.8; and Title II of the Americans With Disabilities Act, 42 U.S.C. 12131 et seq., as implemented by 28 CFR 35.160-164.	Agree in principle, but this issue must be deferred pending approval of a comprehensive policy by RUPRO.
				A notice should be included on page 4 or 5 of FL-600 and on FL-683 within the Notice box on the bottom of the form.	
5.	Christina Llop Family Law Facilitator Superior Court of San Francisco County	AM	N	FL-683: The Spanish language version should be reviewed.	Agree. The Spanish language section of Form FL-600 is being reviewed.

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
6.	Hon. Laura Masunaga Child Support Commissioner Superior Court of Siskiyou County	A	N	No comments.	No response required.
7.	Lori Meseke Judicial Council Liaison Chair San Joaquin County Bar Association	AM	N	FL-600: 1) Summons should be a separate document. 2) All the notices should be in the form of attachments, not in the body of the summons and complaint. These additional pages and lengthy document will likely lead to more confusion, not clarification.	Disagree as to <i>Summons</i> being a separate document in FL-600. The combination <i>Summons and Complaint</i> was part of the legislative mandate of Family Code section 17400(d)(1), which required, among other things, the development of a simplified summons and complaint. Disagree on the issue of position of notices. Outside consultants have indicated that placement of notices at end would be less likely to be observed. This form will be reviewed in the future for overall simplification.
8.	Lenor R. Noll Deputy Executive Officer Superior Court of Monterey County	A	N	No comments.	No response required.
9.	Hon. Harry R. Sheppard Superior Court of Alameda County	A	N	No comments.	No response required.
10.	Hon. Chris Stromsness Superior Court of Siskiyou County	AM	N	FL-600: At item 9, there should be a mention of the affordability issue and of the Healthy Families program as an option.	Agree regarding affordability issue as Family Code section 3751 makes coverage mandatory if available at no cost or at

	Commentator	Position	Comment	Comment	Committee Response
			on behalf of group?		
					reasonable cost. Disagree regarding specific reference to the Healthy Families program, as there is an ongoing controversy whether the Healthy Families program would satisfy the federal requirements regarding health insurance, as it is a government-subsidized program.
11.	Amy Silva, Director Family Law/Probate Operations Superior Court of Orange County	AM	N	 FL-600 Summons and Complaint or Supplemental Complaint Regarding Parental Obligations 1) Page 2 of 5, No. 3, Line 1: "Complete the following section if support is being requested but the establish parentage box has not been checked above." Instead of referring party to the "checked above," suggest putting the actual number where the "establish parentage box" is located, i.e., "the establish parentage box in item No. 1 above" This might be easier to understand when a self-represented party is reading it. 2) Page 3 of 5, line 5 in the paragraph under signature lines: "You must object to it within 10 court days" Suggest adding "in writing" and specify or suggest the form to use, i.e., Notice of Objection, form if that is the appropriate form to use. 3) Page 5 of 5, first paragraph, line 3: Same comment as No. 2 above, to add "in writing." 	Agree. Agree. Incorporation of this suggestion will enhance clarity regarding the procedure to be followed. (Cross-reference to comment 1 above.) Agree.

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
12.	Sandy Almansa Supervising Legal Clerk II Superior Court of Stanislaus County	A	N	No comments.	No response required.
13.	Gloria James Legal Clerk IV Superior Court of Stanislaus County	AM	N	Re: Translation La agencia local para el apoyo de menores ha presentado una demanda judicial en su contra. Esta demanda indica que Usted y el otro padre son los progenitors de cada menor nombrado en esta demanda y que tal vez el responsible tenga que pagar por la mantención de los menores. Adjunto encontrarará el dictamen provisional asociado con las obligaciones de los padres (Formulario FL-630) que le nombra a usted y al otro padre como progenitors de cada menor enlistado abajo, y si hay una cantidad indicada en la linea numero 6, el padre responsible tendrá que pagar por la manutención de estos menores. Si no esta de acuerdo con el dictamen provisional, deberáa de entablar la adjunta respuesta a esta demanda en el secretariado del tribunal dentro de 30 dias a partir de la fecha que se le fué entregada la queja. Si usted no responde a esta demanda, el dictamen provisional se convertirá en la determinación final del parentesco. Si se requiere que pague la manutención de los menores, los pagos podrán ser deducidos de su sueldo o de otros bienes sin ningun otro aviso. Para mas información, favor de ver la	This comment relates to FL-600. This form is being reviewed regarding accuracy of translation.

Commentator	Position	Comment on behalf of group?	Comment	Committee Response
			declaración adjunta acerca de sus derechos y responsabilidades.	